

PMHUNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LOUIS A. DiDONNA,

Plaintiff,

-against-

ROBERT W. MASS, NEW YORK STATE
POLICE; CONNOR M. STEWART, NEW
YORK STATE POLICE; KYLE FERRAND,
SULLIVAN COUNTY SHERIFF'S
DEPARTMENT; DEPUTY SKOW, THE
SULLIVAN COUNTY SHERIFF'S
DEPARTMENT,

Defendants.

ORDER OF SERVICE

No. 22-CV-05417 (PMH)

PHILIP M. HALPERN, United States District Judge:

Louis DiDonna ("Plaintiff"), currently incarcerated at Pike County Correctional Facility in Lords Valley, Pennsylvania, brings this action *pro se* under 42 U.S.C. § 1983. He asserts that Defendants violated his rights by using excessive force on him during an arrest. By Order dated July 27, 2022, Judge Swain granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis* ("IFP").¹ This case was re-assigned to me on July 28, 2022

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service.² *Walker v. Schult*, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process

¹ Prisoners are not exempt from paying the full filing fee even when they have been granted permission to proceed IFP. *See* 28 U.S.C. § 1915(b)(1).

² Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that a summons be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summonses and complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date summonses are issued.

. . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)).

To allow Plaintiff to effect service on Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for the following Defendants: Sgt. Robert W. Mass and Trooper Connor M. Stewart of the New York State Police; and Deputy Kyle Farrand and Deputy Skow of the Sullivan County Sheriff’s Department. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these Defendants.

If the complaint is not served within 90 days after the date the summonses are issued, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service).

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

CONCLUSION

The Clerk of Court is instructed to issue summonses for Sgt. Robert W. Mass and Trooper Connor M. Stewart of the New York State Police; and Deputy Kyle Farrand and Deputy Skow of the Sullivan County Sheriff’s Department, complete the USM-285 forms with the addresses for these Defendants, and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Clerk of Court is further directed to mail an information package to Plaintiff.

SO ORDERED.

Dated: White Plains, New York
August 1, 2022

A handwritten signature in black ink, appearing to read "Philip M. Halpern", written over a horizontal line.

PHILIP M. HALPERN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Sgt. Robert W. Mass
New York State Police Office
Sullivan County State Police Station
5754 State Rte 55
Liberty, New York 12754
2. Trooper Connor M. Stewart
New York State Police Office
Sullivan County State Police Station
5754 State Rte 55
Liberty, New York 12754
3. Deputy Kyle Farrand
Sullivan County Sheriff's Department
58 Old Rte 17
Monticello, New York 12701
4. Deputy Skow
Sullivan County Sheriff's Department
58 Old Rte 17
Monticello, New York 12701